

107TH CONGRESS
2D SESSION

S. 2710

To amend the Internal Revenue Code of 1986 to provide a credit for the health insurance expenses of small businesses.

IN THE SENATE OF THE UNITED STATES

JULY 9, 2002

Mrs. CLINTON (for herself and Mr. DURBIN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for the health insurance expenses of small businesses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Employer Tax
5 Assistance for Health Coverage Act of 2002”.

6 **SEC. 2. CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH**
7 **INSURANCE EXPENSES.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by
 2 adding at the end the following:

3 **“SEC. 45G. SMALL BUSINESS EMPLOYEE HEALTH INSUR-**
 4 **ANCE EXPENSES.**

5 “(a) GENERAL RULE.—For purposes of section 38,
 6 in the case of an employer, the employee health insurance
 7 expenses credit determined under this section is an
 8 amount equal to the applicable percentage of the amount
 9 paid by the taxpayer during the taxable year for qualified
 10 employee health insurance expenses.

11 “(b) APPLICABLE PERCENTAGE.—For purposes of
 12 subsection (a), the applicable percentage is equal to—

13 “(1) in the case of an employer with not more
 14 than 10 qualified employees the average annual rate
 15 of wages of whom paid or incurred by such employer
 16 during the taxable year does not exceed \$10,000, 50
 17 percent,

18 “(2) in the case of an employer with not more
 19 than 10 qualified employees the average annual rate
 20 of wages of whom paid or incurred by such employer
 21 during the taxable year exceeds \$10,000, the excess
 22 of—

23 “(A) 50 percent, over

24 “(B) the percentage points equal to—

25 “(i) the product of—

1 “(I) 1.667, and

2 “(II) the amount by which such
3 average annual rate of wages exceeds
4 \$10,000, divided by

5 “(ii) 1,000,

6 “(3) in the case of an employer with more than
7 10 qualified employees the average annual rate of
8 wages of whom paid or incurred by such employer
9 during the taxable year does not exceed \$10,000, the
10 excess of—

11 “(A) 50 percent, over

12 “(B) the percentage points equal to the
13 product of—

14 “(i) 1.25, and

15 “(ii) the number of qualified employ-
16 ees in excess of 10, and

17 “(4) in the case of an employer with more than
18 10 qualified employees the average annual rate of
19 wages of whom paid or incurred by such employer
20 during the taxable year exceeds \$10,000, the excess
21 of—

22 “(A) the percentage which would be deter-
23 mined under paragraph (3) for such an em-
24 ployer, over

25 “(B) the percentage points equal to—

1 “(i) the product of—
 2 “(I) the number of qualified em-
 3 ployees divided by 6, and
 4 “(II) the amount by which such
 5 average annual rate of wages exceeds
 6 \$10,000, divided by
 7 “(ii) 1,000.

8 For purposes of this subsection, the applicable percentage
 9 is equal to zero if the applicable percentage determined
 10 under paragraph (2), (3), or (4) is less than zero. For
 11 purposes of this subsection, in the case of an employer
 12 with not more than 50 qualified employees the average an-
 13 nual rate of wages of whom paid or incurred by such em-
 14 ployer during the taxable year does not exceed \$30,000,
 15 the applicable percentage shall not be less than the per-
 16 centage otherwise determined under this subsection or 5
 17 percent.

18 “(c) PER EMPLOYEE DOLLAR LIMITATION.—

19 “(1) IN GENERAL.—The amount of qualified
 20 employee health insurance expenses taken into ac-
 21 count under subsection (a) with respect to any quali-
 22 fied employee for any taxable year shall not
 23 exceed—

24 “(A) \$2,000 in the case of self-only cov-
 25 erage, and

1 “(B) \$5,000 in the case of family coverage.

2 “(2) LIMITATION WITH RESPECT TO COVERAGE
3 FOR PORTION OF YEAR.—In the case of the coverage
4 of a qualified employee for only a portion of the tax-
5 able year, the limitation under paragraph (1) shall
6 be an amount which bears the same ratio to such
7 limitation (determined without regard to this sen-
8 tence) as such portion bears to the entire taxable
9 year.

10 “(d) SPECIAL RULES AND DEFINITIONS.—For pur-
11 poses of this section—

12 “(1) DETERMINATION OF EMPLOYMENT.—

13 “(A) IN GENERAL.—An employer shall be
14 considered an employer described in subsection
15 (b) if such employer employed an average of the
16 number of employees described in such sub-
17 section on business days during either of the 2
18 preceding calendar years. For purposes of the
19 preceding sentence, a preceding calendar year
20 may be taken into account only if the employer
21 was in existence throughout such year.

22 “(B) EMPLOYERS NOT IN EXISTENCE IN
23 PRECEDING YEAR.—In the case of an employer
24 which was not in existence throughout the 1st
25 preceding calendar year, the determination

1 under subparagraph (A) shall be based on the
2 average number of employees that it is reason-
3 ably expected such employer will employ on
4 business days in the current calendar year.

5 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-
6 ANCE EXPENSES.—

7 “(A) IN GENERAL.—The term ‘qualified
8 employee health insurance expenses’ means any
9 amount paid by an employer for health insur-
10 ance coverage if such coverage is provided to at
11 least 50 percent of the qualified employees of
12 the employer.

13 “(B) EXCEPTION FOR AMOUNTS PAID
14 UNDER SALARY REDUCTION ARRANGEMENTS.—
15 No amount paid or incurred for health insur-
16 ance coverage pursuant to a salary reduction
17 arrangement shall be taken into account under
18 subparagraph (A).

19 “(C) HEALTH INSURANCE COVERAGE.—
20 The term ‘health insurance coverage’ has the
21 meaning given such term by paragraph (1) of
22 section 9832(b) (determined by disregarding
23 the last sentence of paragraph (2) of such sec-
24 tion).

25 “(3) QUALIFIED EMPLOYEE.—

1 “(A) IN GENERAL.—The term ‘qualified
2 employee’ means any employee who normally
3 works more than 30 hours per week for the em-
4 ployer other than an employee who—

5 “(i) is eligible to participate in any
6 subsidized health plan (within the meaning
7 of section 162(l)(2)) maintained by any
8 employer of the employee or of the spouse
9 of the employee,

10 “(ii) is entitled to any benefits under
11 title XVIII of the Social Security Act,

12 “(iii) is a participant in the program
13 under title XIX or XXI of such Act, or

14 “(iv) is eligible for any benefit pro-
15 vided to such employee under—

16 “(I) chapter 89 of title 5, United
17 States Code,

18 “(II) chapter 55 of title 10,
19 United States Code,

20 “(III) chapter 17 of title 38,
21 United States Code, or

22 “(IV) any medical care program
23 under the Indian Health Care Im-
24 provement Act.

1 “(B) TREATMENT OF CERTAIN EMPLOY-
2 EES.—The term ‘employee’—

3 “(i) shall not include an employee
4 within the meaning of section 401(c)(1),
5 but

6 “(ii) shall include a leased employee
7 within the meaning of section 414(n).

8 “(4) WAGES.—The term ‘wages’ has the mean-
9 ing given such term by section 3121(a) (determined
10 without regard to any dollar limitation contained in
11 such section).

12 “(e) CERTAIN RULES MADE APPLICABLE.—For pur-
13 poses of this section, rules similar to the rules of section
14 52 shall apply.

15 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
16 or credit under any other provision of this chapter shall
17 be allowed with respect to qualified employee health insur-
18 ance expenses taken into account under subsection (a).”.

19 (b) CREDIT TO BE PART OF GENERAL BUSINESS
20 CREDIT.—Section 38(b) of the Internal Revenue Code of
21 1986 (relating to current year business credit) is amended
22 by striking “plus” at the end of paragraph (14), by strik-
23 ing the period at the end of paragraph (15) and inserting
24 “, plus”, and by adding at the end the following:

1 “(16) the employee health insurance expenses
2 credit determined under section 45G.”.

3 (c) NO CARRYBACKS.—Subsection (d) of section 39
4 of the Internal Revenue Code of 1986 (relating to
5 carryback and carryforward of unused credits) is amended
6 by adding at the end the following:

7 “(11) NO CARRYBACK OF SECTION 45G CREDIT
8 BEFORE EFFECTIVE DATE.—No portion of the un-
9 used business credit for any taxable year which is
10 attributable to the employee health insurance ex-
11 penses credit determined under section 45G may be
12 carried back to a taxable year ending before January
13 1, 2003.”.

14 (d) CLERICAL AMENDMENT.—The table of sections
15 for subpart D of part IV of subchapter A of chapter 1
16 of the Internal Revenue Code of 1986 is amended by add-
17 ing at the end the following:

 “Sec. 45G. Small business employee health insurance expenses.”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to amounts paid or incurred in tax-
20 able years beginning after December 31, 2002, for cov-
21 erage established after the date of the enactment of this
22 Act.

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